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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 7 August 1991, at 10 a.m.

Chairman: Mr. JOINET

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The meeting was called to order at 10.10 a.m.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (E/CN.4/Sub.2/1991/11 and 12; E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1991/63 and Add.1)

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (E/CN.4/Sub.2/1991/13 and Add.1)

1. Mr. KEILAU (Centre for Human Rights), introducing agenda item 5, said that in its consideration of agenda item 5 (a) the Sub-Commission might wish to take into account General Assembly resolution 45/105 of 14 December 1990 and Commission on Human Rights resolution 1991/11, both referring to the Second United Nations Decade to Combat Racism and Racial Discrimination.

2. Turning to agenda item 5 (b) he recalled that the item had been discussed by the Sub-Commission since 1973. In 1974 the Sub-Commission had appointed a Special Rapporteur on the item. It now had before it the updated report prepared by the Special Rapporteur, Mr. Khalifa (E/CN.4/1991/13 and Add.1). He also drew the attention of the Sub-Commission to General Assembly resolution 45/84 of 14 December 1990 and to Economic and Social Council resolution 1991/26.

3. Mr. KHALIFA, Special Rapporteur, introducing his updated report (E/CN.4/Sub.2/1991/13), said that it did not differ substantially from the text he had submitted the previous year, first because what needed to be added was professional economic analysis, which was not his province, and secondly because the situation was in constant evolution and anything he might have added would by now be outdated.

4. As for the list itself (E/CN.4/Sub.2/1991/13/Add.1) the current update was very particular. It was no longer the time for finding out who supplied whom with what, but rather to tear down the arguments of the vicious offensive waged by apartheid perpetrators and their supporters and sympathizers. The Sub-Commission had to weigh its judgements against the background of the world apocalypse and the consequences of the Gulf war; it had to see the drops of truth which filtered down from a huge mass of faked material and distinguish a dash of honesty and morality from a mass of fraud and misinformation. Since the Sub-Commission's previous session, the world had changed beyond recognition and events in South Africa had put a totally new face on the issue of apartheid. Those new perspectives had to be reflected in the updated report. At first glance, one might be tempted to think that apartheid was on its way out and that South Africa had finally seen the light, thus tempting those who had imposed sanctions to drop them and that in that logic, a list of those involved with South Africa had more or less lost its rationale. Upon reflection, however, those premises were far from correct. On the other hand, it would not be wise to concentrate on adding to or subtracting from the list, the real battlefield having become the understanding and sound evaluation of the recent events in or messages emitted from South Africa while keeping the list as a weapon of proven effectiveness together with other forms of peaceful pressure on South Africa.

5. Once it was realized an honest dismantling of the ugly machine of apartheid was far away, that South Africa's main concern was to get off the hook and that what had happened so far was far from irreversible or irrevocable, it could be safely assumed that maintaining the guilt-factor underlying the listing should become a prime target. It was naive, to say the least, to consider that recent developments in South Africa constituted an "irreversible" trend justifying the lifting of sanctions, because every single step forward that South Africa had taken could be reversed. The state of emergency could be reimposed, political parties could again be banned, liberated political prisoners could be sent back to prison and apartheid laws could be re-enacted or replaced by similar sham legal measures. As long as whites were the constitutional law-makers and administrators, and were the sole police and military commanders, everything was reversible. The recently uncovered secret South African Government funding of the black political movement Inkatha, the tip of an accidentally discovered iceberg, pointed to the kind of deal South Africa intended to strike and the kind of promise it could give. Several weeks before the scandal had been admitted by the Government, reports quoted Mr. Nico Basson, a former member of the South Africa military intelligence (SADF) as saying that SADF had bought AK-47 rifles and used them to arm Inkatha, and that the violence which had left some 1,800 people dead since last August in the Johannesburg area had been deliberately orchestrated by SADF. The "black-on-black" violence, spreading from Natal to Transvaal, devastating townships such as Soweto, Toboza and others, was threatening to divide the ANC, PAC, and Homeland leadership that had to manage the final mile on the road to liberation, and it was easy to see all along the special role of the South African police in aggravating the situation, as was pointed out in a judicial report issued early in September 1990 sustaining the accusations made by ANC and others that the police had behaved in an undisciplined and hostile manner during recent violence in the townships. Naturally the South African police denied being partisan. But the fact remained that they had traditionally been servants of white supremacy and the strong arm of the apartheid credo since its inception. The South African Government had been caught red-handed in contradictory arguments and excuses that defied belief. There was no doubt that the black bloodbath was a last-ditch effort by certain government and reactionary elements to delay the day of deliverance from the immoral system of apartheid.

6. Sanctions had clearly damaged the South African economy: they had cost South Africa $US 16 billion in foreign exchange since 1985 and halved the annual growth rate. During those five years, investors had withdrawn 80 per cent of the capital they had poured into the country between 1960 and 1984. Inflation in South Africa was around 14 per cent and little economic growth was forecast during the current year. It had been proved beyond the shadow of a doubt that the financial pinch had brought South Africa to take a less arrogant attitude.

7. Suddenly, in April 1991, EEC foreign ministers had agreed to lift a 1986 Community ban on imports of South African iron, steel and gold coins. In December 1990, they had lifted a ban on new investments. Then the United States had hastened to lift the sanctions in a manner totally incompatible with its major and bold role in imposing them, and without a careful and serious scrutiny to ensure that the requirements for lifting

sanctions had been totally met. Even the Prime Minister of Canada had expressed his view that the United States Administration had acted rather hastily. The sanctions imposed by the United States in 1986 prohibited imports of South African coal, textiles, iron, steel and agricultural products, and had also banned exports of oil to South Africa.

8. Other sanctions, embodied in different legislation would remain in effect, with United States arms sales to South Africa still banned, along with export-import bank loans and United States-backed loans from IMF. However, the astonishingly premature lifting of sanctions by the United States had provided South Africa with an omelette much larger than the few eggs South Africa had broken. It was a glimpse of post-Gulf-war politics: with the Third World muted and paralysed, one could do as one pleased.

9. Even Switzerland had already abolished its one limitation in the economic sphere: that capital exports to South Africa should not exceed 300 million Swiss francs. Denmark, however, was to be commended for its firm stand against any relaxation of sanctions, while Finland had chosen to abandon the struggle during the last mile by lifting its ban on imports and exports to South Africa: restrictions on payments and credits and financial guarantees related to trade with South Africa would also be lifted. Those were just a few examples of reactions: the Special Committee against Apartheid was monitoring the situation day by day, and following its directives, the Centre against Apartheid was constantly providing facts and figures. The Commission on Transnational Corporations at its seventeenth session held in April 1991 had also noted the evolving situation in South Africa but had called upon all transnational corporations to stop immediately all forms of trade and economic links with South Africa and any operations there; it had also called upon all multilateral financial and development institutions to cease any kind of support of, or collaboration with, South Africa. The Commission still reviewed a yearly update of transnational corporations with interests in South Africa.

10. He drew attention to the 1991 ILO publication Financial Sanctions Against South Africa, a report of a study concluded under the auspices of a group of independent experts appointed by the ILO Governing Body in 1989. That body had so far held six meetings, the last one in New York in April 1991. The Sub-Commission should be proud that Mr. Van Boven served on that expert group of three and was its convener. ILO was to be commended for its ongoing concern and serious efforts. The ILO's objective report confirmed the effectiveness of financial sanctions and their negative impact on the South African economy. In fact, the unwinding of sanctions had met with no approval inside or outside the United Nations. The Council of Ministers of OAU held in Abuja, Nigeria, in May 1991 had decided that, in the absence of a negotiated settlement, African States should continue to support the oppressed population of South Africa on all fronts, including that of armed struggle, and had called upon the international community to maintain sanctions in line with the United Nations Declaration on Apartheid. It had also strongly condemned the growing military and nuclear cooperation between the Pretoria regime and zionist Israel as well as the growing military cooperation with Taiwan. Immediately afterwards the OAU Assembly of Heads of States and Governments had adopted the Abuja Declaration on South Africa which had taken the same firm position regarding sanctions.

11. It was true that with the repeal of apartheid laws, the racist system lost the force of law. Statutory apartheid was largely gone but constitutional apartheid, de jure, lingered on with the absence of the right to vote. Moreover, de facto apartheid was still present in all its ramifications. Proclaiming racial equality did not mean the ceasing of racial discrimination, not to speak of racial prejudice. The legacy of apartheid could be perpetuated in education, economy, opportunities and social models. A long procession of De Klerks could perpetuate apartheid for another 50 years. A constitution based on justice and equality was a sine qua non for change. Change depended on how constitutional precepts were implemented and by whom. There were, for example, separate education departments according to race, and of course a great disparity in spending on education. Even if constitutional apartheid were done away with, institutional apartheid remained. Huge injustices in all walks of life had been perpetrated during four decades of apartheid: would they be redressed or compensated? The United Nations seemed to have acquired lately a certain liking for compensation and indemnisation: would it press for compensation for the entirely dispossessed South Africans?

12. It was true that the repeal of the Population Registration Act and other acts was a step in the right direction. Yet, even a constitutional reform could be vetoed by the machinery empowered by the current Constitution.

13. To scrap the Constitution now would nullify the parliamentary system through which the country was run; to retain it meant perpetuation of racial classification and the exclusion of blacks from the voters' rolls. The irony would then be that the Azanian people would be given only one choice at best: to negotiate democracy by way of undemocratic means.

14. The power-sharing process would unquestionably suffer from the stampede to lift sanctions. There were still many dragons to slay on the way to constitutional talks and a new non-racial constitution. But once the leverage of sanctions was dropped it would be more probable that the pace of change would change.

15. It had never been intended that sanctions should remain until all racism was wiped out. All that was needed was the establishment of the constitutional machinery that promised such accomplishment in the imminent future. No purpose would be served if sanctions were lifted before there was a new constitution.

16. The present was not the time to remain silent. Strange as it might sound, apartheid had never been stronger or firmer. All that had happened was a change of tactics. Scanning the situation without naivete, a "sting" operation might be detected, comprising the proclamation of the death of apartheid through the abolition of petty apartheid and the repeal of the basic laws while keeping de facto apartheid almost intact.

17. At such a critical moment, when the forces of apartheid and their allies and sympathizers were waging their "soft war" to pacify Africa and deceive the world, it was essential to stand fast, to maximize efforts and to pursue the fight unrelentlessly.

18. The defeatists must not be listened to nor the simple-minded followed, nor must the world fall prey to deception. To damp down the issue would be to destroy the momentum and eventually to lose the cause. The international community must beware of a growing indifference, brought about by the carefully orchestrated scheme, backed by certain factions of the all-powerful media, to portray the case as one that was about to be dismissed. It was very obvious that South Africa was being whisked out of the courtroom with a sentence of not guilty before the trial had come to an end.

19. The international community must not entertain any illusions. It was not true that everything was going well in South Africa. The struggle for freedom from apartheid must go on. The international community should sustain its pressure. If South Africa was trying to appear to be "rehabilitated" it must be asked what it was doing, not for, but to its people, turning brother against brother, instigating sibling massacres, paying blood money to set up bloodbaths and discredit non-white citizens. There was no evidence of a change of heart on the part of South Africa; only a change of tactics.

20. At the previous session he had said that one more year could show whether South Africa would follow the course of redemption or deception. There was no question about it now; the matter had become even bigger than the South African regime. He would rather not refer to a "conspiracy" but rather to a well worked-out scheme agreed upon among those who favoured the status quo in South Africa. Plastic surgery could enable South Africa to be readmitted to the world's civilized community and even enable it to play the role of mentor in the rest of the continent.

21. Before concluding, he wished to report to the Sub-Commission on its resolution 1990/3 adopted the previous year asking the Secretary-General to arrange with the South African authorities for him to visit South Africa in order to acquire a full-circle impression of the situation. He had, in fact, been monitoring developments in the course of the year and was convinced that the situation was still too mercurial and unsettled to make the visit viable. He had informed the secretariat of his views and thoughts that maybe at a later stage during the course of the current year, such a visit could prove possible and useful.

22. The mission sent by the Secretary-General to South Africa in June 1990 had been very timely. That mission had given a concise, learned and highly instructive picture of the situation. He would nevertheless have wished to find more emphasis placed on the crucial question of sanctions, which had been barely touched upon and which, in such a high-level testimony by a high-powered United Nations delegation could have been very beneficial. He believed that, if he was permitted to visit South Africa, he might be able to return to the Sub-Commission with a better and more polished picture.

23. Mr. TREAT said that the world community had long expressed its abhorrence of apartheid. South Africa's apartheid system denied the most basic human rights to the majority of its population. The theory and practice of apartheid offended the core principle of non-discrimination embodied in the Charter of the United Nations and other basic instruments. The Universal Declaration of Human Rights had set forth basic standards of human dignity and had proclaimed that those standards should be applied without distinction of

any kind, such as race, colour, or national origin. The same principle of non-discrimination had been carried further in later instruments such as the International Covenants on Human Rights and the Convention on the Suppression and Punishment of the Crime of Apartheid.

24. The Sub-Commission should praise the recent progress that South Africa had made in dismantling the legal structures of apartheid. The Government had repealed repressive legislation, released some political prisoners and permitted some exiles to return. Yet, those efforts had thus far failed to bring about the fundamental changes necessary to end the apartheid system. Hundreds of political prisoners remained in prison and ongoing trials continued to generate new political prisoners. Political exiles faced bureaucratic obstacles to their return and uncertainty as to their status. Despite the long-awaited repeal of racist laws, some of their more repressive features remained in place. Most discouraging was the fact that currently there was still no new constitution and black South Africans were still denied the right to vote.

25. As a citizen of the United States of America, he was proud of his country's strong role in advocating an end to apartheid in South Africa. The United States had expressed its outrage at the continuing lack of democracy in South Africa and had articulated concrete preconditions to its lifting of economic sanctions against South Africa. Those conditions included the release of all political prisoners; the repeal of the state of emergency; the unbanning of political organizations and the guarantee that all South Africans could freely participate in the political process; the repeal of discriminatory legislation; and the commencement of good faith negotiations with truly representative members of the black majority. The Government of South Africa had satisfied some of those conditions but had not yet completed the changes that would justify the lifting of sanctions.

26. The countries of the world looked forward to the day when all sanctions were lifted and South Africa once again joined the community of nations. It was essential to work toward establishing normal economic and cultural ties with the people of South Africa. The Sub-Commission should urge the Government of South Africa to take all steps necessary to make possible the re-establishment of such ties.

27. A survey of recent legislation in South Africa illustrated both the progress achieved and the remaining obstacles to the creation of a non-racial democracy. In June 1991, the international community had welcomed the repeal of the Land Acts, the Group Areas Act and the Population Registration Act, which together comprised the legal cornerstone of apartheid. For decades, those laws had dictated the employment, housing and educational opportunities of black South Africans and had condemned most of them to a life of deprivation and despair. For example, the Land Acts had set aside a mere 13 per cent of the land for black South Africans who comprised 85 per cent of the population. Those laws prevented blacks from buying or renting land outside certain designated areas. Black farmers outside of those areas were evicted or relegated to labour tenant status on white-owned farms. Many black communities had been forced off the land that they owned.

28. The Group Areas Act had designated certain zones in which only members of a particular racial group could live or own property. The South African Government had now repealed those laws and established a commission to study the allocation of land to blacks who had been forcibly removed from their property.

29. The Sub-Commission should urge the South African Government to build upon those legislative changes to relieve the plight of the black majority. The repealed laws had long impoverished most black South Africans so that it had been nearly impossible for them to purchase any land that might become available. In addition, the new legislation did not provide for restitution to persons who had been forcibly removed from their property. Similarly, the repeal of the Population Registration Act, which racially classified every person at birth, would only end the racial registration of the newborn and newcomers. The existing population register would apparently remain in place until a new constitution was adopted.

30. The world community hoped that the recent legislative changes would lead to the total elimination of apartheid and would not merely transfer the policies of apartheid to the local level. For example, one provision of the recent legislation allowed present white owners to set so-called "norms and standards" for their neighbourhoods. The result could be to keep non-whites out of those residential neighbourhoods and thus preserve the status quo under apartheid. Such an outcome was unacceptable. It would betray the hopes and promises of all parties who had declared themselves committed to ending the apartheid system.

31. All foes of apartheid welcomed South Africa's lifting of its state of emergency last year. Unfortunately, that action had not eliminated the practices that prevented the majority population from participating fully in the political process. The Government retained the right to declare "unrest areas" and thereby exercise the same broad powers to arrest, detain, and use deadly force as had been permitted under the state of emergency. Existing law permitted incommunicado detention for indefinite periods and also allowed a police officer to detain anyone merely on suspicion that the person might disrupt civil peace. Government regulations also permitted the police and other officials to impose curfews and prohibit public gatherings. Such repressive legislation was a heavy burden on blacks who were denied the right to vote and therefore depended on peaceful demonstrations to express their political views. Clearly, the devastating legacy of apartheid would not easily be erased. A key element in removing that legacy and achieving full political participation in South Africa was the release of political prisoners and the return and indemnification of persons exiled for political offences. One year earlier, the negotiating parties had issued a joint statement known as the "Pretoria Minute". That agreement had contained a timetable for granting immunity for political offences to persons inside and outside South Africa. The deadline had passed; yet it appeared that hundreds of political prisoners remained incarcerated and only a fraction of the tens of thousands of eligible political exiles had felt safe enough to return to South Africa. Their fear and scepticism appeared justified. Reports indicated that dozens of returning exiles had been detained for interrogation. In addition, the Government had denied many jailed opponents of apartheid the status of political prisoners, thus making them ineligible

for release under the "Pretoria Minute". The Government of South Africa must honour the commitments it had made in the Pretoria Minute. It must eliminate all obstacles that impeded the process of release and indemnification and thereby delayed the transition to a non-racial democracy.

32. The most serious and tragic obstacle to fruitful negotiations was the unrelenting brutal violence that continued to plague black South Africans. A government had no greater role than to protect the persons who lived within its borders. The Government of South Africa must act forcefully to defuse the tensions that existed and to guarantee the safety of all South Africans. The people must have confidence that the Government was making every effort to end the violence that continued to ravage large segments of South African society. The people must also be assured that not only the Government but also the courts and the police were acting in an impartial manner when they carried out their duties to maintain civil peace.

33. The Sub-Commission should insist that the South African Government thoroughly investigate all claims that security forces or other State organs were fostering and committing acts of violence. One government official had admitted that, during 1990, security forces had killed approximately 200 people and wounded more than 4,000. A reliable non-governmental organization had stated that the number of victims was even higher. Equally disturbing were the documented instances in which police or security forces had joined one side in attacking a rival group, or had failed to intervene when an attack was in progress. For example, various reliable sources had reported seeing the police join Inkatha members in attacking supporters of the African National Congress; had failed to respond to ANC calls for help; had disarmed ANC members but not Inkatha; and had provided transportation for Inkatha members to the scene of a conflict.

34. The Government should continue to investigate the strong evidence that State-sponsored death squads operated both inside and outside South Africa. Although one Government commission had found insufficient evidence of police-run death squads, a subsequent court decision had called into question that conclusion. That court had found that a police officer had deliberately misled the court and the Government commission about the existence of death squads. Yet despite the strong evidence, there had been relatively few prosecutions and the bloodshed continued unabated.

35. It must be understood that the violence was not purely a dispute between rival factions. It was not the victims of apartheid who were to blame for their plight. Rather, it was the responsibility of the architects of apartheid - the South African Government - to ensure the peaceful climate necessary to dismantle the system they had created and to end the terror that had kept it in place.

36. There could be no lasting peace without respect for the rule of law. The Government of South Africa must demonstrate its commitment to that basic principle by thoroughly investigating all allegations of abuses and violations of the law and by prosecuting whenever the evidence indicated that violations had occurred. It was essential that the Government should promote respect for the law by aggressively investigating even the most sensitive allegations that

implicated organs of the State itself. Such an examination would be a test of the Government's leadership and its skill and resolve to end apartheid.

37. The international community continued to condemn apartheid as a gross violation of human rights and a crime against humanity. The Sub-Commission should praise South Africa's significant steps in the right direction. At the same time, the Sub-Commission should indicate that it was disturbed by the continuing violence and lack of progress in fully implementing measures to end apartheid. It should call upon the Government of South Africa to ensure an atmosphere free of violence and conducive to negotiations for the total eradication of apartheid and the beginning of the promised new era in South Africa.

38. Mr. Khalifa, the Special Rapporteur, had rightly pointed to the major changes which had taken place during the past 12 months not only in South Africa but also in Eastern Europe. The Special Rapporteur's conclusions, however, were more pessimistic than his own. There were some parallels between East Europe and South Africa in that a transition had begun in both; two steps forward had, however, been followed by one step back. That however was part of the essential process of major societal change. In the relationship between the United States and the Soviet Union, President Bush had taken the position that President Gorbachev had made important reforms and had applauded such actions. Equally, President De Klerk had taken some important steps in South Africa but the ultimate goal had not yet been reached. Expectations should not be set too high. A country previously lacking in democratic usages could not convert to a democracy overnight.

39. Mr. Khalifa had expressed the view that the process in South Africa was reversible. President Bush had used the word "irreversible". He wondered whether Mr. Khalifa had taken account of the world outrage which would follow any reversal in South Africa. He himself could not believe that the process would be reversed.

40. It had to be recognized that both President Gorbachev and President De Klerk faced internal political problems in accomplishing the progress which they wished to achieve and must take into account the consequences of the internal political opposition.

41. He had been startled and somewhat chagrined that Mr. Khalifa had singled out the United States in his comments on sanctions. Mr. Khalifa's emphasis on the United States of America was one-sided and contrary to his own report (E/CN.4/Sub.2/1991/13) which had demonstrated that the United States was a leader in disinvestment with a disinvestment rate of 62 per cent, a figure which was in excess of most of the major industrial countries. It was true that, according to paragraph 61 of the report, there had been a marked increase in exports to South Africa, but the paragraph had noted that the increase for the United States had been 41 per cent as against 72 per cent from Germany. He therefore wondered why the United States had been referred to specifically for its role in sanctions. His country had been the first to impose sanctions. Congress had passed a law setting five conditions for the lifting of sanctions and the President had complied with that legislation.

42. References to a "sting" operation, and to "plastic surgery" reflected a very pessimistic view of the situation and gave little credence to the integrity of the people implementing reforms. He himself had seen that considerable progress had already been made. It was not good tactics for the Sub-Commission constantly to condemn people who were making improvements because the improvements were not being effected fast enough.

43. Mr. Khalifa had drawn a useful distinction between de facto and de jure apartheid. The abolition of de jure apartheid had not yet been finalized, nor certainly, had de facto apartheid. Complete de facto equality was extremely difficult to achieve and indeed perhaps never would be. The international community would want to find a complete people in South Africa once apartheid had been abolished. It would be important to retain what was good as encouragement to greater progress in the future. One day South Africa would come to the United States and other countries asking for help in trade so that it could assist the whole of its people. Economic sanctions must not be overdone.

44. He fully subscribed to the condemnation of apartheid and urged that all appropriate measures should be taken. The pressure must be kept up but he would urge that it should not be so great as to bring about economic devastation. The goal should be the establishment of a truly pluralist multiracial society in South Africa. It was wrong to be over-pessimistic. Democracy would not be achieved overnight.

45. Mr. GUISSE congratulated Mr. Khalifa on his outstanding work of information and analysis of the problem of apartheid, an issue unique in history. He thanked all who had requested that the issue should be studied as an isolated phenomenon in order to highlight it even further. Apartheid was not merely a system of discriminatory practices; it remained a system of government based on racial discrimination. It had been built up over 50 years, and had not been abolished just because some of its rules had been abandoned. The memory of apartheid remained, and educational or other compulsory measures were needed to root it out from the mind of every South African whether proponent or victim of apartheid.

46. The international community should therefore make haste slowly. The raising of sanctions by certain economic Powers was premature. Apartheid was like a furious, wounded beast, more ferocious than ever before. It was scandalous that the Government of South Africa should consider it acceptable that public money should be given to certain groups using violence to eliminate others.

47. The international community was not being asked to infringe the principle of non-interference in internal affairs in the case of South Africa. It was merely being asked to recognize that apartheid still continued and that it must be combated by peaceful economic means. Neither the people of South Africa, Mr. Nelson Mandela nor the OAU had asked for sanctions to be lifted, since the reasons for their imposition still remained. He therefore agreed with Mr. Khalifa that as long as political, military and economic power was in the sole hands of the whites, the dismantling of apartheid could still be reversed.

48. Mr. EIDE congratulated Mr. Khalifa on his very useful introduction and analysis of recent political developments. He had also appreciated the statement by Mr. Treat.

49. Current developments in South Africa were at one and the same time encouraging and ominous. Within the South African power structure there were elements still relentlessly pursuing violence and destruction. However, he did believe that President De Klerk was trying to transform South Africa and that he had the support of the white community. It was not yet clear whether that support was sufficient.

50. It was gratifying that many of the blatant apartheid laws had been scrapped, but it was also true, as Mr. Treat had pointed out, that new laws still tended to protect privileged groups.

51. It was hard to judge how to encourage positive forces while discouraging negative ones. In his own country it had been decided that sanctions could be eliminated only when the political prisoners were released and encouragement to violence had ended. However, at a meeting of Foreign Ministers of the Nordic countries, it had been stated that in the light of recent developments the time was approaching for a re-examination of economic sanctions.

52. He suggested that the Sub-Commission should try to analyse ways of encouraging the positive forces at work in South Africa.

53. On the question of discrimination in general, the problem of racial and ethnic discrimination was becoming increasingly severe in regions of the world outside South Africa. Violence was being practised against foreigners and migrant workers in the West, and in Central and Eastern Europe there had been a resurgence, albeit limited, of anti-Semitism and fascism, and an upsurge of nationalism and xenophobia directed against groups that had been living together for decades.

54. He drew attention to his study on the achievements made and obstacles encountered during the Decades to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add.1). The proposals for changes made by members of the Sub-Commission would be incorporated in the final version, and he was open to further suggestions to improve the text.

55. Turning to the recommendations put forward in the note by the Secretary-General (E/CN.4/Sub.2/1991/11), he approved the proposal in paragraph 11 concerning the monitoring of apartheid in transition. Despite the removal of certain blatantly discriminatory laws, it was clear that legislation to restore equality would not be adopted until the legislature itself was democratically elected.

56. The problem of restoring equality in the economic field remained. Tremendous economic and social injustices subsisted in South Africa, which would be hard to eliminate. He agreed with Mr. Treat that there was no point in destroying the South African economy, for that would have adverse effects on the whole population; on the other hand, economic privileges must not remain in the hands of a few.

57. The problem of affirmative measures would therefore become extremely important. In that connection he congratulated the Centre for Human Rights on convening, in June 1991, a seminar on constitutional processes in South Africa in conjunction with the World Council of Churches, at which he had been invited to lecture, and at which an interesting debate had been held between representatives from the ANC and other liberation movements as well as the Government. A follow-up meeting was to be held in South Africa in October 1991. One of the measures discussed at that seminar was the problem of affirmative action to restore equality in fact and in law.

58. He could accept most of the recommendations in the note by the Secretary-General (E/CN.4/Sub.2/1991/11) in connection with the proposed updating of the special study of racial discrimination in the political, economic, social and cultural spheres prepared by the Special Rapporteur, Mr. Hernán Santa Cruz (E/CN.4/Sub.2/370 and Add.1-6 and Add.6/Corr.1), and wished to suggest that cases of discrimination which had originated in slavery should be addressed. He agreed with the proposals in that note for strengthening coordination within the United Nations system and in particular the possibility of preparing in collaboration with UNESCO, a programme of activities to be undertaken in the field of education and mass media to foster attitudes of equality and non-discrimination in States Members of the United Nations. The question of promoting international standards was an issue that the Sub-Commission could discuss in its joint meeting with CERD.

59. It was important that the Sub-Commission should make its own contribution to the 1993 World Conference on Human Rights, particularly in the field of prevention of discrimination and protection of minorities.

60. He suggested that the Sub-Commission's forthcoming meeting with CERD should not merely be a formal meeting but should identify issues on which there could be an exchange of views. Suitable subjects for debate were the resurgence of racism, affirmative action and special measures in relation to allegations of reverse discrimination; the interrelationship between freedom of expression and association and measures to be taken against the language of hatred and discrimination. Lastly, the question of education was of great interest to both bodies.

61. As far as the Sub-Commission's own work was concerned, he suggested that a more thematic attitude towards issues should be adopted. With regard to South Africa, on which Mr. Khalifa should be encouraged to continue his work, the main theme should be monitoring apartheid in transition, including the monitoring of constitutional measures towards full political participation, the development of measures to provide equality in fact and not merely in law, control over and composition of the army, security and intelligence services.

62. As far as discrimination in general was concerned he suggested that the Sub-Commission should reiterate its previous request for an overview of current trends of racism, discrimination, intolerance and xenophobia to be prepared by the Secretary-General. Governments, non-governmental organizations and specialized agencies should therefore be requested to provide the Sub-Commission with more information.

63. The Sub-Commission should pursue its study of affirmative action and special measures in regard to allegations of reverse discrimination, and should also focus on measures to replace the culture of hatred, violence, xenophobia and discrimination by cultures which promoted harmonious coexistence and equality.

64. Mr. YIMER, speaking on agenda items 5 (a) and (b), said that the fact that agenda item 5 (a) had been on the Sub-Commission's agenda since 1978, and had been included in its primary terms of reference, indicated the importance of the subject. The Sub-Commission had made a significant contribution to combating racism and racial discrimination, but despite all the instruments adopted, events organized and bodies established, those phenomena continued and were in fact spreading. The fact that apartheid was no longer institutionalized was irrelevant: the struggle against racism must continue.

65. The note by the Secretary-General entitled Outline of ways and means necessary to increase the effectiveness of United Nations actions to combat racism and racial discrimination (E/CN.4/Sub.2/1991/11), contained important information and recommendations. Paragraphs 7 and 8 contained interesting observations, and the new conflicts mentioned in paragraph 8 (a) to (f) should serve as a guide to the Sub-Commission in its future work.

66. In connection with improving international action, he endorsed the suggestion to update the study by Mr. Hernán Santa Cruz and to divide the assessment according to the main contexts in which discrimination was likely to occur.

67. He also endorsed the suggestions made on monitoring apartheid in transition and strengthening coordination within the United Nations system, including the regular convening of a joint meeting of the Sub-Commission and CERD and the International Day for the Elimination of Racial Discrimination. The possibility of convening a global consultation of experts in 1992 was worth considering.

68. Important suggestions on improving education for non-discrimination were made in paragraph 32 of the note.

69. With regard to the Sub-Commission's request in resolution 90/2 that the Secretary-General should prepare an overview of current trends of racism, discrimination, intolerance and xenophobia against vulnerable groups in the world, he noted that insufficient information had been received for such an overview to be submitted to the current session and hoped that further replies would be received to enable it to be submitted the following year.

70. Mr. Khalifa's reports constituted an important element in the chain of sanctions against the Government in Pretoria. Amidst the general euphoria generated by the changes which had undoubtedly taken place in South Africa in recent years, one essential point tended to be overlooked. The Population Regulation Act had been repealed and beaches and public parks were no longer segregated, but apartheid still existed in so far as the black majority still did not have the vote and the white minority still ruled the country. The ultimate aim was majority rule, which it could take years to bring about. The international campaign against apartheid should therefore continue, and in

that campaign sanctions played an important role. As chapter III of Mr. Khalifa's latest report showed, the South African Government was taking steps to circumvent them. That proved that they were having an effect. Publicity, including the annual reports submitted to the Sub-Commission, was one kind of sanction. Further improvements in South Africa would be welcome, but as long as the black majority did not have the vote and apartheid continued to exist, every effort must be made to bring about its de jure and de facto elimination.

71. Mrs. WARZAZI noted that, despite the two Decades to combat racism, the progress made had been so unsatisfactory that it had been considered necessary to declare a third Decade. A large number of international standards and instruments had been adopted, and the conscientious follow-up given to them by the Committee on the Elimination of Racial Discrimination and the Human Rights Committee could have been expected to lead to a clear improvement in the situation. The end of the cold war could also have been expected to have had a beneficial effect on the populations of conflict-ridden areas. Unfortunately, that had not been the case. On the contrary, the world seemed to be doomed to a state of perpetual agitation in which the international community ran around from one place to another trying to eliminate scourges with the inadequate means at its disposal.

72. The painful events which had taken place in Liberia and Sri Lanka were indicative of behaviour incompatible with the minimum respect for the human rights of ethnic groups. Ethnic passions were now ravaging Europe, where the influence of the extreme right was increasing spectacularly as a result of its campaign against immigrant workers. Not a day went by without murders, armed attacks, or punitive incursions against areas inhabited by immigrants, without arbitrary arrests and suspect deaths in police stations. Admittedly, some Governments were aware of the situation and were conducting investigations, but it could only be concluded that racism was on the increase and that something had gone wrong with the democratic mechanisms of the countries concerned. An analysis of the political situation in those countries indicated that a multi-party system could, in certain cases, be conducive to an upsurge in racism, since the legally recognized right-wing parties, in order to score political points, embarked on campaigns contrary to democratic principles based on respect for the human person.

73. It was particularly disturbing to learn that the latest opinion polls showed, for example, that Mr. le Pen's National Front might obtain 14.5 per cent of the votes as a result of its aggressive attitude to immigrants. What, then, should one expect of a Government which also wanted to mobilize the full support of its electors? What should it reply to senators who considered that immigration and insecurity went hand in hand? What measures could be taken against racist mayors? Easy ways-out had apparently been found, such as mass deportations and the signature, by several countries, of an agreement to close the frontiers of Europe to aliens, notwithstanding the principle of freedom of movement. Nevertheless, some French specialists had recently found that between now and the year 2000 Europe would need approximately 150,000 more workers a year. In February 1991, ILO had published a report on the increase in immigration in the world and had asked what steps could be taken to avoid the worst and to make the best of such movements of labour.

74. In his opening statement, the Under-Secretary-General for Human Rights had suggested a number of topics that might be considered at the Sub-Commission's joint meeting with CERD. She agreed with most of them, but she found one disturbing. That was the question of potential conflicts between the right to protection against racial discrimination and certain other fundamental rights and freedoms. In fact, the question did not even arise, since, in the campaign against racism, the right to discriminate, whether by word or by deed, was always to be condemned.

75. It was clear that no new measure could be confidently recommended if a government lacked political will or was merely passive. If an end was really to be put to racism, the State had to prevent any incitement to racial hatred. Freedom of expression could not be allowed to become an instrument for the destruction of vital human rights such as respect for human dignity, security and equality. The countries from which migrant workers came had no means of bringing pressure to bear on the States in which they were employed. Fortunately, national non-governmental organizations were demanding energetic intervention by their governments to protect migrant workers. In that connection, it would be interesting to know how many international NGOs were actively concerned with the problem.

76. Document E/CN.4/Sub.2/1991/11 was extremely interesting, but what she found most attractive was the proposed study on new problems and trends leading to the recrudescence of racism and xenophobia. The peoples of the whole world were going to have to live together. The example of the United States of America, where statistics pointed to a complete social upheaval at the ethnic level, was there to remind the world that every effort must be made to achieve consensus and ethnic coexistence if peace, stability and prosperity were to prevail.

77. Mrs. PALLEY said that all the issues involved had been brillantly outlined by Mr. Khalifa, Mr. Treat and other speakers. However, although she agreed very strongly with Mr. Khalifa that it was far too soon to lift the economic sanctions against South Africa and that the machinery for them must remain in place in case it was needed again, she strongly disagreed with his analysis of the trends in that country. Without using the word "conspiracy", he had, in fact, taken a straightforward "conspiratorial" view. That was quite understandable in view of South Africa's history, but it concentrated on only certain aspects of what was happening in a very complicated system, stressing all the continuing evils and ignoring the complexities. Real change had taken place and a real transition was under way, although there were important sections of the white establishment, especially the police and sectors of the army and some members of the Cabinet, who had been sabotaging the efforts to put an end to apartheid. Mr. De Klerk was not in control of all on his side. In world history there had been very few instances of overnight peaceful change, and it had been necessary for Mr. De Klerk to bring his side into line. That he had been doing, but not quickly enough.

78. At the same time there was also a need for ANC, PAC and other political groupings, particularly Inkatha, to get their acts together. They should not attempt to exclude different groups within their own side. Until both sides, black and white, had got their acts together, there would be no agreement to move forward quickly. It was disastrous that internal feuding on the black

side had been exploited by the white Government. However, the feuding had not been created by the Government, since anyone who knew Africa well was aware of its tribal divisions and of the strife to which they had led. They simply could not be ignored, and until violence by whites against blacks and by blacks against blacks had ceased, the two sides would not come together. She fully agreed with Mr. Treat regarding the need to investigate and end the violence, but even more effective would be an invitation to black leaders to serve in a joint interim Government, to be followed by the elaboration of a new constitution. Sanctions could then be suspended and economic growth, so essential for economic equality in the future, could be resumed. The South African economy was the only one in Africa which was partly a first world economy, and it would be tragic to destroy it.

79. She did not agree with Mr. Khalifa that the changes were reversible, although there could be ups and downs and some white groups would try to resist change. The irreversibility of the process had already been seen in the case of Zimbabwe. However, everyone needed to learn the lesson that moral distaste and indignation were luxuries that people in the real world could not afford. She had learnt that lesson when she had been involved in the negotiations for the independence of Zimbabwe and had found it necessary to shake hands with two men involved in the murder of a close friend of hers. Her personal distaste and horror could not be allowed to disrupt the negotiations.

80. A particular feature of the problems caused by intensified migration from the third world, flows of refugees due to ethnic conflicts and increased racial discrimination in Western countries was the question of immigration, the treatment of immigrants, asylum, and deportation, which needed to be thoroughly studied by the Sub-Commission, since some Western Governments tended to be hypocritical in the matter, adopting neutral wording in immigration regulations but applying discriminatory operating criteria. She believed that the Sub-Commission needed to take the whole question of immigration into its jurisdiction.

The meeting rose at 1 p.m.